

LEGISLATIVE COUNSEL  
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97TH CONGRESS  
1ST SESSION

H.R. 4

To amend the National Security Act of 1947 to prohibit the unauthorized disclosure of information identifying certain United States intelligence officers, agents, informants, and sources.

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IN THE HOUSE OF REPRESENTATIVES

JANUARY 5, 1981

Mr. BOLAND (for himself, Mr. MAZZOLI, and Mr. ROBINSON) introduced the following bill; which was referred to the Permanent Select Committee on Intelligence

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A BILL

To amend the National Security Act of 1947 to prohibit the unauthorized disclosure of information identifying certain United States intelligence officers, agents, informants, and sources.

1       *Be it enacted by the Senate and House of Representa-*

2       *tives of the United States of America in Congress assembled,*

3       That this Act may be cited as the "Intelligence Identities

4       Protection Act".

5       SEC. 2. (a) The National Security Act of 1947 is

6       amended by adding at the end thereof the following new title:



1     “TITLE V—PROTECTION OF CERTAIN NATIONAL  
2                         SECURITY INFORMATION

3     “DISCLOSURE OF IDENTITIES OF CERTAIN UNITED STATES  
4                         UNDERCOVER INTELLIGENCE OFFICERS, AGENTS, IN-  
5                         FORMANTS, AND SOURCES

6         “SEC. 501. (a) Whoever, having or having had author-  
7         ized access to classified information that identifies a covert  
8         agent, intentionally discloses any information identifying such  
9         covert agent to any individual not authorized to receive clas-  
10        sified information, knowing that the information disclosed so  
11        identifies such covert agent and that the United States is  
12        taking affirmative measures to conceal such covert agent’s  
13        intelligence relationship to the United States, shall be fined  
14        not more than \$50,000 or imprisoned not more than ten  
15        years, or both.

16         “(b) Whoever, as a result of having authorized access to  
17        classified information, learns the identity of a covert agent  
18        and intentionally discloses any information identifying such  
19        covert agent to any individual not authorized to receive clas-  
20        sified information, knowing that the information disclosed so  
21        identifies such covert agent and that the United States is  
22        taking affirmative measures to conceal such covert agent’s  
23        intelligence relationship to the United States, shall be fined  
24        not more than \$25,000 or imprisoned not more than five  
25        years, or both.

1        "(c) Whoever, in the course of an effort to identify and  
2 expose covert agents with the intent to impair or impede the  
3 foreign intelligence activities of the United States, discloses,  
4 with the intent to impair or impede the foreign intelligence  
5 activities of the United States, to any individual not author-  
6 ized to receive classified information, any information that  
7 identifies a covert agent knowing that the information dis-  
8 closed so identifies such covert agent and that the United  
9 States is taking affirmative measures to conceal such covert  
10 agent's intelligence relationship to the United States, shall be  
11 fined not more than \$15,000 or imprisoned not more than  
12 three years, or both.

13                  "DEFENSES AND EXCEPTIONS

14        "SEC. 502. (a) It is a defense to a prosecution under  
15 section 501 that before the commission of the offense with  
16 which the defendant is charged, the United States had public-  
17 ly acknowledged or revealed the intelligence relationship to  
18 the United States of the individual the disclosure of whose  
19 intelligence relationship to the United States is the basis for  
20 the prosecution.

21        "(b)(1) Subject to paragraph (2), no person other than a  
22 person committing an offense under section 501 shall be sub-  
23 ject to prosecution under such section by virtue of section 2  
24 or 4 of title 18, United States Code, or shall be subject to

1 prosecution for conspiracy to commit an offense under such  
2 section.

3 "(2) Paragraph (1) shall not apply in the case of a  
4 person who acted in the course of an effort to identify and  
5 expose covert agents with the intent to impair or impede the  
6 foreign intelligence activities of the United States.

7 "(c) In any prosecution under section 501(c), proof of  
8 intentional disclosure of information described in such sec-  
9 tion, or inferences derived from proof of such disclosure, shall  
10 not alone constitute proof of intent to impair or impede the  
11 foreign intelligence activities of the United States.

12 "(d) It shall not be an offense under section 501 to  
13 transmit information described in such section directly to the  
14 Select Committee on Intelligence of the Senate or to the Per-  
15 manent Select Committee on Intelligence of the House of  
16 Representatives.

17           **"PROCEDURES FOR ESTABLISHING COVER FOR**  
18           **INTELLIGENCE OFFICERS AND AGENTS**

19        "SEC. 503. (a) The President shall establish procedures  
20 to ensure that any individual who is an officer or employee of  
21 an intelligence agency, or a member of the Armed Forces  
22 assigned to duty with an intelligence agency, whose identity  
23 as such an officer, employee, or member is classified informa-  
24 tion and which the United States takes affirmative measures  
25 to conceal, is afforded all appropriate assistance to ensure

1 that the identify of such individual as such an officer, em-  
2 ployee, or member is effectively concealed. Such procedures  
3 shall provide that any department or agency designated by  
4 the President for the purposes of this section shall provide  
5 such assistance as may be determined by the President to be  
6 necessary in order to establish and effectively maintain the  
7 secrecy of the identity of such individual as such an officer,  
8 employee, or member.

9         “(b) Procedures established by the President pursuant to  
10 subsection (a) shall be exempt from any requirement for pub-  
11 lication or disclosure.

12                 **“EXTRATERRITORIAL JURISDICTION**

13         “SEC. 504. There is jurisdiction over an offense under  
14 section 501 committed outside the United States if the indi-  
15 vidual committing the offense is a citizen of the United States  
16 or an alien lawfully admitted to the United States for perma-  
17 nent residence (as defined in section 101(a)(20) of the Immi-  
18 gration and Nationality Act).

19                 **“PROVIDING INFORMATION TO CONGRESS**

20         “SEC. 505. Nothing in this title shall be construed as  
21 authority to withhold information from Congress or from a  
22 committee of either House of Congress.

23                 **“DEFINITIONS**

24         “SEC. 506. For the purposes of this title:

1           “(1) The term ‘classified information’ means infor-  
2         mation or material designated and clearly marked or  
3         clearly represented, pursuant to the provisions of a  
4         statute or Executive order (or a regulation or order  
5         issued pursuant to a statute or Executive order), as re-  
6         quiring a specific degree of protection against unau-  
7         thorized disclosure for reasons of national security.

8           “(2) The term ‘authorized’, when used with re-  
9         spect to access to classified information, means having  
10         authority, right, or permission pursuant to the provi-  
11         sions of a statute, Executive order, directive of the  
12         head of any department or agency engaged in foreign  
13         intelligence or counterintelligence activities, order of a  
14         United States court, or provisions of any Rule of the  
15         House of Representatives or resolution of the Senate  
16         which assigns responsibility within the respective  
17         House of Congress for the oversight of intelligence  
18         activities.

19           “(3) The term ‘disclose’ means to communicate,  
20         provide, impart, transmit, transfer, convey, publish, or  
21         otherwise make available.

22           “(4) The term ‘covert agent’ means—

23                  “(A) an officer or employee of an intelligence  
24         agency, or a member of the Armed Forces as-  
25         signed to duty with an intelligence agency—

1                         “(i) whose identity as such an officer,  
2                         employee, or member is classified informa-  
3                         tion, and  
4                         “(ii) who is serving outside the United  
5                         States or has within the last five years  
6                         served outside the United States;  
7                         “(B) a United States citizen whose intelli-  
8                         gence relationship to the United States is classi-  
9                         fied information and—  
10                         (i) who resides and acts outside the  
11                         United States as an agent of, or informant or  
12                         source of operational assistance to, an intelli-  
13                         gence agency, or  
14                         “(ii) who is at the time of the disclosure  
15                         acting as an agent of, or informant to, the  
16                         foreign counterintelligence or foreign coun-  
17                         terterrorism components of the Federal  
18                         Bureau of Investigation; or  
19                         “(C) an individual, other than a United  
20                         States citizen, whose past or present intelligence  
21                         relationship to the United States is classified and  
22                         who is a present or former agent of, or a present  
23                         or former informant or source of operational as-  
24                         sistance to, an intelligence agency.

1                 “(5) The term ‘intelligence agency’ means the  
2                 Central Intelligence Agency, the foreign intelligence  
3                 components of the Department of Defense, or the for-  
4                 eign counterintelligence or foreign counterterrorist  
5                 components of the Federal Bureau of Investigation.

6                 “(6) The term ‘informant’ means any individual  
7                 who furnishes information to an intelligence agency in  
8                 the course of a confidential relationship protecting the  
9                 identity of such individual from public disclosure.

10                 “(7) The terms ‘officer’ and ‘employee’ have the  
11                 meanings given such terms by sections 2104 and 2105,  
12                 respectively, of title 5, United States Code.

13                 “(8) The term ‘Armed Forces’ means the Army,  
14                 Navy, Air Force, Marine Corps, and Coast Guard.

15                 “(9) The term ‘United States’, when used in a ge-  
16                 ographic sense, means all areas under the territorial  
17                 sovereignty of the United States and the Trust Ter-  
18                 tory of the Pacific Islands.”.

19                 (b) The table of contents at the beginning of such Act is  
20                 amended by adding at the end thereof the following:

“TITLE V—PROTECTION OF CERTAIN NATIONAL SECURITY  
INFORMATION

“Sec. 501. Disclosure of identities of certain United States undercover intelligence officers, agents, informants, and sources.

“Sec. 502. Defenses and exceptions.

“Sec. 503. Procedures for establishing cover for intelligence officers and employees.

“Sec. 504. Extraterritorial jurisdiction.

“Sec. 505. Providing information to Congress.

“Sec. 506. Definitions.”.

